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5 Attorney for Plaintiff John Noble
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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 John Noble,
13

Plaintiff,
14

v.
15

The Union Bank of California Long Term
Disability Benefits Plan,
16

Defendant.
17
18

No: C 08-00115 SI

**DECLARATION OF COUNSEL
IN OPPOSITION TO
DEFENDANT'S MOTION
TO DISMISS**

Date: July 11, 2008
Time: 9:00 a.m.
Dept: Courtroom 10

19 I, Scott Kalkin, declare under penalty of perjury, that:

20 1. I am an attorney at law duly licensed to practice before all of the courts of the
21 State of California, the United States District Court for the Northern District of California,
22 the Ninth Circuit Court of Appeal and the United States Supreme Court. I am a partner
23 in the firm of Roboostoff & Kalkin and the attorney for plaintiff John Noble in the above-
24 captioned matter. If called as a witness, I could and would competently testify to the
25 facts set forth herein.
26
27

28 Declaration of Counsel in Opposition
to Motion to Dismiss

1 2. During the course of the administrative appeal of John Noble's claim for
2 disability benefits I requested that the Union Bank of California Disability Plan produce
3 certain plan documents. This request was made on or about November 21, 2006.

4 3. On or about December 20, 2006, in response to my request, Dawn Ross,
5 Vice President and Senior Counsel for the bank, mailed me, among other documents,
6 the document attached hereto as Exhibit 1.

7 4. The document attached hereto as Exhibit 1 is a true and correct copy of the
8 document I received from Ms. Ross.

9 I declare under penalty of perjury that the foregoing is true and correct and that
10 this declaration was executed at San Francisco, California.

11
12 Dated: June 19, 2008

/s/
Scott Kalkin

PROOF OF SERVICE

I, the undersigned, declare:

I am over the age of 18 years and not a party to this action or proceeding. My business address is 369 Pine Street, Suite 610, San Francisco, California 94104, where I am employed:

On June 19, 2008, I caused to be served the following document(s):

**DECLARATION OF COUNSEL
IN OPPOSITION TO MOTION TO DISMISS**

 X MAIL - placed in the United States mail at San Francisco, California, postage fully prepaid.

 PERSONAL SERVICE - delivered by hand to the addressee. (Jetset Couriers)

 FAX - same day delivery by facsimile transmission to the addressee's fax number.

 X E-FILED - served pursuant to Northern District of California General Order 45.

addressed to the following:

Sarah K. Hamilton, Esq.
JONES DAY
555 California Street, 26th Floor
San Francisco, CA 94104

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 19, 2008, at San Francisco, California.

 /s/
Scott Kalkin